IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 19TH OCTOBER 2007 / 27TH ASWINA 1929

MACA.No. 387 of 2003(C)

OPMV.1735/1994 of ADDL.MOTOR ACCIDENT CLAIMS TRIBUNAL, KOLLAM

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APPELLANT/PETITIONER

MAHU GEORGE, S/O.VARKEY, MANALIL
PARAMBIL VEEDU, ANAPARAMPAL NORTH P.O.
KUTTANADU TALUK, THALAVADY VILLAGE,
ALAPUZHA DISTRICT.

BY ADV. SRI.MVS.NAMBOOTHIRY

RESPONDENTS:

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1. VIJU JACOB DAVID, S/O.DAVID,
MANALIL PARAMBIL VEEDU, ANAPARAMPAL
NORTH P.O., THALAVADY, ALAPUZHA DISTRICT.

2. NATIONAL INSURANCE CO.LTD.,
BRANCH OFFICE, P.B.NO.37, M.C.ROAD,
THIRUVALLA, PIN 689 101.

3. S.RAJAMOHAN, S/O.K.SOMAN, MANILALAYAM,
MARATHADI, KOLLAM.

* 4. D.SHAN, S/O.DAMODARAN, GREESHMA BHAVAN,
MATHILIL P.O., PERINADU, KOLLAM. ***(REMOVED)***

(4TH RESPONDENT IS REMOVED FROM THE PARTY ARRAY
AT THE RISK OF THE APPELLANT AS PER ORDER
DATED 1.8.2007 IN I.A.NO.1627/2007)

5. NATIONAL INSURANCE CO.LTD.,
DIVISIONAL OFFICE, HOSPITAL ROAD,
KOLLAM.

BY ADV. SMT.SARAH SALVY

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 19/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.A.C.A.No.387 of 2003

Dated this the 19th October, 2007.

J U D G M E N T

Petitioner in O.P.(M.V) No.1735/1994, on the file of the 2nd Additional Motor Accidents Claims Tribunal, Kollam, is the appellant. Appellant sustained injuries in a motor vehicle accident, which took place on 22.5.1994. He filed Original Petition claiming compensation against owners, drivers and insurer or both the vehicles. The owners and drivers did not contest the matter. The Insurer alone contested the matter. Negligence alleged was denied. Quantum of compensation claimed was disputed. It was admitted that both the vehicles were covered with a valid policies issued by 2nd and 5th respondents, in favour of 1st and 4th respondents. The Tribunal found that the accident occurred due to the negligence of the driver of the jeep. It also found that appellant is entitled to get compensation and

awarded an amount of Rs.5000/= as compensation. The award was passed in favour of respondents 1 and 2. Complaining the quantum of compensation, this appeal is filed.

2. The only question arising for consideration in this case is whether the appellant is entitled to get any additional compensation. The injuries noted are incised wound above his left eye brow. Initially, he was admitted in the Holy Cross Hospital for two days, and thereafter, he was admitted and treated in the Pushpagiri Hospital, Kottiyam. It is true that he did not produce any documents. The appellant was studying for his Second Year BDS course and aged 19. Considering all aspects of the matter, the Tribunal ought to have awarded another Rs.2000/= for pain and sufferings, and Rs.500/= more for treatment expenses. So, the appellant is entitled to get an additional compensation of Rs.2500/=, which will carry interest at the rate of 6% per annum.

In the result, the appeal is allowed in part. An award is passed allowing the appellant to recover an amount of Rs.2500/= as additional compensation from the second respondent, Insurance Company, with 6% interest from the date of petition, till the date of

realisation. The second respondent is directed to deposit the above amount in favour of the appellant. On deposit, the appellant can withdraw the amount.

K.PADMANABHAN NAIR,
JUDGE

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